IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

-

WRIT PETITION NO : 4343 of 2005

Between:

Mohd.Yakob, s/o Abdul Raheem,
r/o H.No.11-8-121, Khammam, Khammam District.

..... PETITIONER

AND

State Bank of Hyderabad, Khammam Branch, Khammam

represented by its Branch Manager.

..... RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more in the nature of mandamus declaring the action of the respondent bank in not permitting the petitioner to withdraw the amounts lying in his S.B.A/c No.01190008699 on the ground that his signature is not tallying with the specimen signature available with the respondent bank as illegal, arbitrary, violative of Art.14 and 21 of the Constitution of India and consequentially to direct the respondent bank authorities to permit the husband of the petitioner to withdraw the amounts lying in his account or to transfer the same to the account of his wife by personally appearing and signing before the respondent bank authorities forthwith and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.M.SUDHIR KUMAR

Counsel for the Respondent: Mr. P.A.V. BALA PRASAD

The Court at the stage of admission made the following

ORDER:

The prayer in this writ petition is to permit the petitioner to operate his savings bank account bearing No.01190008699 in Khammam branch of respondent (State Bank of Hyderabad, Khammam), through his wife.

(2) The allegations in the affidavit of the wife of petitioner, filed in support of the application, show that from the last 25 years petitioner has been suffering from mental disorder and is taking treatment in Government hospital for mental care and so, he is unable to operate his savings bank account in the respondent bank by himself and hence this petition, as respondent is not permitting his wife to operate the account.

(3) Since the allegations in the affidavit filed in support of this petition show that petitioner is suffering from mental disorder, the petition filed in his name without a guardian is not maintainable, for non-compliance with the provisions of Order 32 C.P.C. read with Rule 24 of the Writ Proceedings Rules, 1977.

(4) When the petitioner, admittedly, is suffering from a mental disorder, unless a competent court appoints a guardian to the person and properties of the petitioner, question of the respondent permitting the wife of the petitioner to operate the savings bank account of the petitioner does not arise and so this Court cannot give a direction in the nature sought by the petitioner. Wife of the petitioner is at liberty to initiate proceedings before a competent court and obtain necessary declaration regarding the mental health of the petitioner and for appropriate reliefs and depending on the orders passed the respondent can be approached for the relief

claimed.

(5) With this direction, the writ petition is disposed of.

No costs.

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C.Y. SOMAYAJULU, J

Date: 28th April, 2005

lsn

ASSISTANT REGISTRAR

To

1. The Branch Manager, State Bank of Hyderabad,

Khammam Branch, Khammam.

2. Two CD copies

3. One CC to MR.BALAPRASAD, learned counsel for the respondent.